No. 78-959

In the Supreme Court of the United States

OCTOBER TERM, 1978

VINCENT R. PERRIN, JR., PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES

WADE H. MCCREE, JR.
Solicitor General

PHILIP B. HEYMANN
Assistant Attorney General

STEPHEN M. SHAPIRO
Assistant to the Solicitor General

JAMES ROLAND DIFONZO
Attorney
Department of Justice
Washington, D.C. 20530

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OPINION BELOW

The opinion of the court of appeals (Pet. App. A) is reported at 580 F.2d 730.

JURISDICTION

The judgment of the court of appeals was entered on September 20, 1978. A petition for rehearing was denied on November 15, 1978 (Pet. App. B). The petition for a writ of certiorari was filed on Decem-

ber 15, 1978, and was granted on March 19, 1979, limited to Question One in the petition (Pet. 2). The jurisdiction of this Court rests on 28 U.S.C. 1254 (1).

QUESTION PRESENTED

Whether commercial bribery prohibited by state criminal statute constitutes "bribery * * * in violation of the laws of the State in which committed," within the meaning of the Travel Act, 18 U.S.C. 1952.

STATUTES INVOLVED

18 U.S.C. 1952 provides in pertinent part:

> (a) Whoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce, including the mail, with intent to—
>
> (1) distribute the proceeds of any unlawful activity; or
>
> (2) commit any crime of violence to further any unlawful activity; or
>
> (3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,
>
> and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

> (b) As used in this section "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics, or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, or (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States.
>
> * * * * *

La. Rev. Stat. Ann. § 14:73 (West 1974) provides:

> Commercial bribery is the giving or offering to give, directly or indirectly, anything of apparent present or prospective value to any private agent, employee, or fiduciary, without the knowledge and consent of the principal or employer, with the intent to influence such agent's, employee's, or fiduciary's action in relation to the principal's or employer's affairs.
>
> The agent's, employee's or fiduciary's acceptance of or offer to accept, directly or indirectly, anything of apparent present or prospective value under such circumstances shall also constitute commercial bribery.
>
> The offender under this article who states the facts, under oath, to the district attorney charged with prosecution of the offense, and who gives evidence tending to convict any other offender under this article, may, in the discretion of the district attorney, be granted full immunity from prosecution for commercial bribery, in respect to the particular offense reported.

Whoever commits the crime of commercial bribery shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

STATEMENT

1. Petitioner and co-defendants Duffy LaFont, David Levy, Albert Izuel and Jim Haddox were indicted in the United States District Court for the Eastern District of Louisiana on charges of violating the Travel Act, 18 U.S.C. 1952, and conspiring to violate the Act, in violation of 18 U.S.C. 371.[1] The basis of the indictment was a scheme to use the facilities of interstate commerce for the purpose of promoting commercial bribery in violation of the laws of the State of Louisiana, La. Rev. Stat. Ann. § 14:73 (West 1974).[2] Following a trial by jury,

[1] Petitions for certiorari have been filed by co-defendants Levy (No. 78-5855) and LaFont (No. 78-5930), raising the same question of statutory interpretation presented by petitioner Perrin. Those petitions are still pending.

[2] Count 1 of the indictment charged petitioner and all four co-defendants with conspiracy to violate the Travel Act. Count 2 charged petitioner, LaFont and Levy with Travel Act violations arising from interstate telephone communications and use of common carrier facilities in interstate commerce. Counts 3 and 4 charged petitioner, LaFont and Levy with Travel Act offenses arising from interstate telephone communications. Counts 5 and 6 charged LaFont, Levy, Izuel and Haddox with Travel Act violations arising from interstate telephone communications and interstate travel. The proceedings against Izuel and Haddox were severed by the district court at trial and the charges against them were subsequently dismissed by the government.

petitioner, LaFont and Levy were convicted on the conspiracy count and two substantive Travel Act counts (Counts 2 and 3).[3] Petitioner received a one-year suspended sentence on each count (Pet. App. A-6).[4]

The evidence at trial showed that petitioner, Levy and LaFont engaged in a scheme to exploit stolen geological data obtained from Roger Willis, an employee of the Petty-Ray Geophysical Company. Willis was induced to steal the data through bribery. The evidence also showed that petitioner and his co-defendants used the facilities of interstate commerce in furtherance of the bribery scheme (Pet. App. A-5 to A-6, A-11 to A-14).

Petty-Ray Geophysical Company, the victim of the conspiracy, was in the business of conducting geological explorations and selling data to oil producing companies (Tr. 107-109).[5] The company treated the data that it developed as confidential information due to its substantial commercial value (Tr. 109-110, 207-208, 157-158).[6] Willis worked at Petty-Ray as an

[3] LaFont and Levy were also convicted under Counts 5 and 6 of the indictment.

[4] LaFont and Levy received concurrent two-year prison sentences on each count (Pet. App. A-6).

[5] Petty-Ray probed areas beneath the surface of the earth for potential oil deposits by inducing vibrations into the earth and analyzing their transmission patterns (Tr. 127, 222-223).

[6] Executives from Petty-Ray testified that strict confidentiality was essential to the business of the company. If proprietary information developed by the company were to become public, it could not be sold. And if it were to be disclosed after sale to a customer, that would infringe the customer's contractual rights (Tr. 161, 166-167, 246-248, 267).

analyst of seismic data sheets, but he did not have authority to sell or release the company's data (Tr. 159, 181, 184-186, 190-192). In June 1975, LaFont approached Willis and proposed that he steal certain exploration data from Petty-Ray (Tr. 519-523). In return for the theft, LaFont promised that Willis would receive a percentage of the profits of a corporation organized by LaFont and Levy to exploit the stolen data (Tr. 524-529). Willis agreed, and gave LaFont various geological materials stolen from Petty-Ray (Tr. 520-522, 529-535, 566-570, 599-607).

Petitioner Perrin, a consulting geologist, joined the conspiracy in order to interpret the stolen data (Tr. 1222-1223, 1272-1274). At a meeting in July 1975, petitioner, LaFont, Levy and Willis elaborated their plan (Tr. 536-542, 1274). Having seen the stolen data, petitioner expressed the view that "it looked real good" and instructed the group that he would need property ownership maps of the area in question to determine how it could best be exploited (Tr. 539-542). Petitioner also directed the group to obtain gravity maps to assist in interpreting the data (*ibid.*; Tr. 1335).[7] Willis informed petitioner that he worked for Petty-Ray and that the data was compiled by Petty-Ray (Tr. 538-539).

After this meeting, Willis contacted the FBI and disclosed the details of the scheme (Tr. 270, 542-543, 1454-1455). He agreed to allow the FBI to record

[7] Gravity maps are used by geologists to correlate and check seismic data (Tr. 1294-1296, 1418-1419).

conversations between himself and the other conspirators (Tr. 271-281, 543-550). Forty-seven tape recordings were made, 37 of which were subsequently played for the jury (Tr. 1087-1088, Gov't Exh. T-48).[8]

Petitioner and LaFont directed Willis to call a firm in Richmond, Texas, to secure the desired gravity maps (Tapes 2, 5, 6). Petitioner intentionally selected an out-of-state supplier, thinking that it would be less likely to notice leasing activities in Northern Louisiana (Pet. App. A-15; Tape 6). Willis placed an interstate telephone call from Louisiana to Texas to inquire about the gravity maps (Pet. App. A-12 to A-15; Tr. 575-576, 1019, 1025). In response to that inquiry, certain materials were shipped the next day by Continental Bus, and Willis picked them up (Tr. 576-578, 1022-1026; Tape 7). This use of interstate facilities formed the basis for Count 2 of the indictment.

Subsequently, Levy made another interstate telephone call to Richmond, Texas, to request immediate delivery of the gravity maps. When a delay in the shipment resulted, Levy told petitioner to buy the gravity maps from another source (Pet. App. A-13; Tr. 1019-1021; Tapes 7, 12, 13). This interstate telephone communication formed the basis for Count 3 of the indictment.

[8] The district court refused to admit into evidence written transcripts of the tapes and also struck from the record the notes made by the court reporter while the recordings were being played (Tr. 1081-1088). Consequently, the record contains no written transcription of the tapes.

The original investor in the scheme, who planned to supply capital needed to exploit the stolen data, was Carlos Marcello, a reputed organized crime figure (Tape 2, Tr. 387). Marcello introduced petitioner to LaFont and Levy (Tr. 1271-1272, 1307). Under the original arrangement, Marcello was to pay LaFont, Levy and Willis 2% of the profits to be generated by the stolen data (Tape 24). Petitioner, who had had prior dealings with Marcello (Tr. 1257-1270) and who continued to work with him in connection with the scheme (Tr. 1271-1274, 1314-1315), was to receive a cut from Marcello's share (Tape 5). Due to heavy surveillance by federal agents, however, Marcello backed out of the scheme (Tr. 1349-1350; Tapes 20, 22, 24).[9] Petitioner subsequently attempted to find an alternative investor but met with no success (Tapes 23-27, 30).

At trial, petitioner took the witness stand in his own defense. He admitted that he had been informed that the data supplied by Willis was stolen (Tr. 1317, 1320-1321, 1331-1333, 1335-1336, 1347, 1378). When confronted during cross examination with the substance of his recorded conversations, petitioner admitted that he was considered to be part of the deal by the others (Tr. 1328), that he suggested the formation of a corporation to prevent future difficulties in the operation of the scheme (Tr. 1328, 1338-1339), that he recommended that the data needed to exploit

[9] Marcello was under continuous surveillance by the federal organized crime strike force in New Orleans (Tr. 353-354, 387).

the stolen materials be obtained from out-of-state sources (Tr. 1340-1341), that he discussed alternative ways to "skin a cat" when Marcello backed out (Tr. 1348-1349, 1357-1358), and that he anticipated that he could obtain financial benefits from the scheme (Tr. 1367). Petitioner also admitted that he recognized that his reputation was at stake as a result of the scheme (Tr. 1365-1367), but he continued to participate partly because he was intrigued by it (Tr. 1371-1372) and partly because he did not know how to extricate himself (Tr. 1376-1377).

2. The court of appeals affirmed the convictions of petitioner and his co-defendants (Pet. App. A-1 to A-22). The court rejected petitioner's contention that the Travel Act extends only to official and not commercial bribery, reasoning that the word "bribery" is generic in scope (*id.* at A-8). In support of its analysis, the court cited this Court's decision in *United States* v. *Nardello*, 393 U.S. 286 (1969), which held that the term "extortion" (appearing in the same portion of the Travel Act as the word "bribery") should be interpreted generically and should not be limited to its common law definition (*id.* at A-9). The court also noted that Congress has passed a number of federal statutes prohibiting commercial bribery, a fact that, in the court's view, reflects congressional recognition that the term "bribery" embraces more than corruption of public officials.

In adopting a generic interpretation of the statute, the court followed the decision of the Fourth Circuit

in *United States* v. *Pomponio*, 511 F.2d 953, cert. denied, 423 U.S. 874 (1975), which had also held that the Travel Act encompasses commercial bribery. The court declined to follow the decision of the Second Circuit in *United States* v. *Brecht*, 540 F.2d 45 (1976), which had reached the opposite result.

Judge Rubin dissented (Pet. App. A-19 to A-22). He reasoned that Congress should not be presumed to have included commercial bribery within the prohibition of the Travel Act because relatively few states had adopted commercial bribery legislation at the time of enactment of the federal statute. Judge Rubin also noted that commercial bribery frequently is treated as a misdemeanor under state law and concluded that it would be anomalous to convert commercial bribery into a federal felony under the Travel Act (*id.* at A-21). Finally, Judge Rubin asserted that the Act should be interpreted narrowly, due to its purportedly ambiguous coverage (*id.* at A-22).

SUMMARY OF ARGUMENT

1. The Travel Act, 18 U.S.C. 1952, forbids use of the facilities of interstate commerce to promote or facilitate the promotion of a broad spectrum of unlawful activities, including "bribery * * * in violation of the laws of the State in which committed or of the United States." Under Louisiana criminal statute, it is unlawful to engage in "commercial bribery," which is defined as "the giving or offering to give, directly or indirectly, anything of apparent present

or prospective value to any * * * employee * * * with the intent to influence * * * such * * * employee's * * * action in relation to the * * * employer's affairs." La. Rev. Stat. Ann. § 14:73. The Travel Act, literally construed, applies to "bribery" as forbidden by the Louisiana criminal statute.

The literal text of the Travel Act applies to all bribery offenses, as proscribed by state or federal law, not just the subspecies of bribery directed at public officials. If Congress had intended to limit the Travel Act to official bribery, it surely would have said so expressly, just as it did in the official bribery statute, 18 U.S.C. 201(b), (c), (f), (g). Instead of limiting the offense to a particular category of bribery, such as official bribery, Congress made the Travel Act applicable to bribery of all kinds. The statute thus uses the term "bribery" generically, to designate the corrupt payment or receipt of a private advantage to induce a breach of duty recognized under the law. Although petitioner contends that the statute should be confined to official corruption, "[n]othing on the face of the statute supports this reading of it." *United States* v. *Naftalin*, No. 78-561 (May 21, 1979), slip op. 3.

2. Although it is true that the term "bribery" was used at common law to designate various forms of official bribery, the common law definition does not restrict the scope of the Travel Act. The common law definition of bribery underwent a process of continuous evolution and growth. In the age of Sir Edward Coke, "bribery" extended only to the

corruption of judges. See III E. Coke, *Institutes of the Laws of England* 144, 147 (1628). By the nineteenth century, the term had been expanded to embrace corruption of all kinds of public officials, whether judicial or not, as well as witnesses, jurors, and voters, and also to include corrupt payments to procure appointment to public office. See 3 J. Stephen, *A History of the Criminal Law of England* 250-255 (1883). Thus, the common law provides no settled definition of the term "bribery" that could be relied on to delimit the coverage of the Travel Act. In each of the stages of its development, the common law defined bribery differently. The scope of the Travel Act cannot logically be made to depend on the state of development of the common law at an arbitrarily selected point in its history.

The appropriate standard for interpreting the term "bribery" is the twentieth century definition, as it was employed by Congress and the state legislatures when the Travel Act was adopted in 1961. By 1961, Congress had proscribed various forms of commercial bribery under federal criminal statutes. Similarly, by 1961, 43 states had enacted statutes prohibiting bribery of employees, agents, athletes, and other persons deemed to be in a position requiring strict fidelity. As the court of appeals recognized, these statutes show unmistakably that the term "bribery," as used by Congress and the state legislatures, embraced private as well as official corruption. Since the Travel Act extends to all forms of bribery illegal under state or federal statute, and since state and

federal statutes included commercial and other forms of private bribery when the Travel Act was enacted, there is no basis for confining the Act to official bribery.

In light of this background, this Court's decision in *United States* v. *Nardello*, 393 U.S. 286 (1969), announces the correct rule of interpretation to be applied in the present case. In *Nardello*, the Court considered whether the term "extortion," appearing in the same portion of the Travel Act as the word "bribery," should be limited to its common law meaning. The Court held that it should not, declining to give the statute the "unnaturally narrow reading" urged by the defendant. *Id.* at 296. The Court noted that, in contemporary usage, the word "extortion" is "generic," extending to all forms of threats used to obtain the property of another person, not just extortionate schemes involving public officials. *Ibid.* Here, as in *Nardello*, the terms used in the Travel Act should be given their generic meaning. There is no justification for implying a limitation on the statute's broad coverage.

3. Applying the Travel Act to commercial bribery would serve the congressional purpose in enacting the statute. The Travel Act was "primarily designed to stem the 'clandestine flow of profits' " to organized crime. See *United States* v. *Nardello*, *supra*, 393 U.S. at 291-292. The extensive use by organized crime of commercial bribery to infiltrate honest business firms and to generate illicit revenue is well documented. It would be anomalous to interpret the

statute in such a way that organized crime, while prohibited from preying on American business firms through crude techniques of "arson" and "extortion," would be free to resort to sophisticated schemes of commercial bribery to increase its illegal profits. Congress' purpose in enacting the statute would be frustrated if racketeers, based in one state, could extract revenues from business firms or financial institutions in other states through corruption of their trusted agents and employees.

Although the statutory purpose of inhibiting the activities of organized crime would be promoted by applying the Travel Act to commercial bribery, the government need not show in a particular case that the defendant is affiliated with organized crime or that a particular level of organization exists in the criminal venture. The Act was intended to reach types of illegal activity frequently used by organized crime, and the corrective measure selected by Congress is general in scope. The Act imposes penalties on "any individual" who engages in the conduct prohibited by its terms. See *United States* v. *Nardello*, *supra*, 393 U.S. at 293. There is no requirement that in any individual case the government prove "racketeering" or "organized illegal activity," conduct that is undefined by the statute and is not specified as an element of the offense. See *United States* v. *Culbert*, 435 U.S. 371, 374-380 (1978).

4. This case presents no occasion for applying the "rule of lenity" or the rule of "strict construction." The literal text of the Travel Act, its historical context, and the purposes sought to be achieved by Con-

gress all support the generic interpretation adopted by the court below. "The rule of strict construction is not violated by permitting the words of the statute to have their full meaning, or the more extended of two meanings, as the wider popular instead of the more narrow technical one." *SEC* v. *C.M. Joiner Leasing Corp.*, 320 U.S. 344, 355 (1943).

For similar reasons, the rule of lenity has no application here. There is no ambiguity that defies resolution and requires resort to such a rule of construction. The rule of lenity only applies when "after 'seiz[ing] every thing from which aid can be derived' * * * we are left with an ambiguous statute." *Scarborough* v. *United States*, 431 U.S. 563, 577 (1977). Because the meaning of the Travel Act can be ascertained with reasonable certainty, there is no ambiguity necessitating a curtailment of its literal coverage. See *United States* v. *Culbert*, *supra*, 435 U.S. at 379; *United States* v. *Naftalin*, *supra*, slip op. 10; *United States* v. *Batchelder*, No. 78-776 (June 4, 1979), slip op. 7.

ARGUMENT

THE TRAVEL ACT USES THE TERM "BRIBERY" IN ITS GENERIC SENSE AND THEREBY ENCOMPASSES COMMERCIAL BRIBERY ILLEGAL UNDER STATE OR FEDERAL STATUTE

By its decision in the present case, the Fifth Circuit joins the Fourth Circuit in concluding that the Travel Act extends to commercial bribery illegal under state or federal law. See *United States* v. *Pom-*

ponio, 511 F.2d 953, cert. denied, 423 U.S. 874 (1975). The Second Circuit has reached a different conclusion, reasoning that the term "bribery" should be limited to official bribery, as the term was limited at common law. *United States* v. *Brecht*, 540 F.2d 45 (1976).

We submit that the decision below is faithful to the language and purpose of the statute. The Second Circuit's interpretation engrafts a limitation on the Travel Act that is inconsistent with its clear text. The statute extends to all forms of bribery illegal under state or federal law, not just the subspecies of bribery directed toward public officials. The history of the statute and the legislative understanding of the term "bribery" at the date of its enactment offer additional support for this interpretation. As we demonstrate below, a restriction of the Travel Act to official bribery would conflict with the plain meaning of the words used by Congress and would frustrate the objectives that Congress intended to achieve by enactment of the provision.[10]

[10] This Court's grant of certiorari in the present case was limited to the question whether the Travel Act applies to commercial bribery. In his brief (pages 9-14), petitioner nonetheless discusses questions that this Court declined to review, including the sufficiency of the evidence proving guilt and the use of the facilities of interstate commerce. In light of this Court's limited grant of certiorari, we do not address those questions, except to note that the evidence, viewed in the light most favorable to the government (*Burks* v. *United States*, 437 U.S. 1, 17 (1978)), amply established that petitioner was aware of the purposes of the conspiracy from his first involvement, that he caused the facilities of interstate commerce to be used with the intent to carry on an illegal commercial bribery scheme, and that he thereafter promoted the operation of the scheme in a manner that was calculated to yield profits for himself and bribery payments for the corrupted employee (see Pet. App. A-11 to A-16).

A. The Language Used By Congress In The Travel Act Is Generic And Is Not Limited To A Particular Subspecies Of Bribery

As this Court has repeatedly noted, the " 'starting point in every case involving the construction of a statute is the language itself.' " *Southeastern Community College* v. *Davis*, No. 78-711 (June 11, 1979), slip op. 6; *Reiter* v. *Sonotone Corp.*, No. 78-690 (June 11, 1979), slip op. 3-4. 18 U.S.C. 1952 provides that "[w]hoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce" with the intent to promote "any unlawful activity," and thereafter promotes or attempts to promote such activity, is guilty of an offense. The statute defines the term unlawful activity to include, *inter alia*, "extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States." It is immediately apparent that Congress has included no limiting modifier that would restrict the term "bribery" to a subspecies such as "official bribery." Instead of referring to bribery of public officials, the statute broadly refers to bribery prohibited under state or federal law, without limitation on the category. Thus, although petitioner contends that the statute should be confined to official bribery, "[n]othing on the face of the statute supports this reading of it." *United States* v. *Naftalin*,

No. 78-561 (May 21, 1979), slip op. 3. See also *United States* v. *Culbert*, 435 U.S. 371, 373 (1978). "No mention is made of a purpose to distinguish between different forms of [bribery], as would be expected if the distinction had been intended." *United States* v. *Turley*, 352 U.S. 407, 414-415 (1957).

The term "bribery," like the term "extortion" which appears in close conjunction with it in the statute, has a "generic" meaning. See *United States* v. *Nardello*, 393 U.S. 286, 296 (1969).[11] The literal meaning of the term "bribery," although inclusive of official corruption, is not so limited. Bribery is a general term that designates the tendering or receipt of a private advantage as a reward for the violation of duty. See, *e.g.*, *United States* v. *Esperdy*, 285 F.2d 341, 342 (2d Cir.), cert. denied, 366 U.S. 905 (1961) (dealing with bribery of athletes): "Bribery in essence is an attempt to influence another to disregard his duty while continuing to appear devoted to it or to repay trust with disloyalty." [12]

[11] The *Nardello* case is discussed in detail at pages 32-36, *infra*.

[12] *Webster's Third New International Dictionary* 275 (1961) defines a "bribe" as "a price, reward, gift or favor bestowed or promised with a view to pervert the judgment or corrupt the conduct esp. of a person in a position of trust (as a public official) * * * something that serves to induce or influence to a given line of conduct * * *." *The Oxford English Dictionary* 1093 (1933) defines "bribery" as "[t]he act or practice of giving or accepting money * * * with the object of corruptly influencing the judgment or action; * * *." Although official bribery is included within this generic definition, other forms of bribery are clearly included as well. See *United States* v. *Zacher*, 586 F.2d 912, 915-916 (2d Cir. 1978).

The generic scope of the word "bribery" as used in Section 1952 is evident when other statutes dealing with limited kinds of bribery are considered. When Congress wished to confine the coverage of a statute to official bribery, it did so expressly. Thus, 18 U.S.C. 201(b) prohibits the offer of anything of value "to any public official or person who has been selected to be a public official" if the purpose of the offer is to "influence any official act" or otherwise cause a breach of lawful duty. See also 18 U.S.C. 201(c), (f), and (g), which are expressly limited to "official" corruption. If Congress had wished to limit the scope of the Travel Act to official corruption, it surely would have said so, rather than extending the statute to any form of bribery "in violation of the laws of the State in which committed or of the United States." [13]

The "ordinary understanding" of the word "bribery" is also fortified by the "structure of the Act." *Group Life & Health Insurance Co.* v. *Royal Drug Co.*, No. 77-952 (Feb. 27, 1979), slip op. 5. As this Court has previously emphasized, the Travel Act "is concerned with a broad spectrum of 'unlawful activity.' " *Erlenbaugh* v. *United States*, 409 U.S. 239, 246 (1972). The statute is broadly directed at speci-

[13] As discussed on pages 24-26, *infra*, Congress has proscribed commercial bribery and other forms of non-official bribery under several different federal criminal statutes. If the Travel Act were limited to "official" bribery it might be deemed to be inapplicable to those federal offenses as well as offenses arising under state law. See *United States* v. *Pomponio*, *supra*, 511 F.2d at 955-957.

fied business enterprises engaged in gambling, liquor, narcotics, or prostitution offenses. 18 U.S.C. 1952 (b)(1). It also extends to individual acts of "extortion" or "arson," as well as "bribery." 18 U.S.C. 1952(b)(2). Like commercial bribery, extortion and arson are widely used by criminals to prey on legitimate business.[14] See *United States* v. *Nardello*, *supra*, 393 U.S. at 291 n.8, 295 n.13. In sum, the statute reaches a wide range of criminal activities that can be promoted through use of the facilities of interstate commerce, including those inflicting commercial injury.[14] In light of the evident scope of the statute, it would be inappropriate to deprive the term "bribery" of its literal meaning and adopt the "unnaturally narrow reading" urged by petitioner. *United States* v. *Nardello*, *supra*, 393 U.S. at 296.

B. The Common Law Definition Of Bribery Does Not Restrict The Travel Act To Official Bribery

Despite the fact that the literal language of the Travel Act extends to bribery of all kinds and is not limited to official corruption, petitioner argues, in reliance on *United States* v. *Brecht*, *supra*, 540 F.2d at 48, that such a limitation should be implied because the term was so restricted "at common law" (Br. 6-7). In our view, that contention is meritless for two reasons. First, the definition of bribery was subject to a process of continuing evolution at com-

[14] See R. Kennedy, *The Program of the Department of Justice on Organized Crime*, 38 Notre Dame Law. 637, 639 (1963): "This law has the broadest scope and the greatest potential of the new antiracketeering statutes."

mon law. Delimiting the scope of the Travel Act by reference to the common law would give the Act a different meaning depending on the historical era that was selected as the point of reference. Second, any common law definition would be wholly anachronistic. Long before the Travel Act was adopted by Congress in 1961, the word "bribery" had an accepted legal meaning that was broader than the broadest common law definition. As we demonstrate below, the appropriate point of reference in the evolution of the definition of bribery is the twentieth century, when the Travel Act was enacted. Congress should be presumed to have used the expression "bribery * * * in violation of the laws of the State in which committed or of the United States" in reference to existing legislation in 1961, not in reference to the common law in the age of Coke, Hale or Blackstone.

1. *The common law definition of bribery was subject to continuous growth and provides no settled meaning useful in construing the Travel Act*

As this Court noted in *United States* v. *Nardello*, *supra*, 393 U.S. at 293 n.11, "[b]ribery has traditionally focused upon corrupt activities by public officials." In the seventeenth century, the crime of bribery extended only to corruption of judges. See III E. Coke, *Institutes of the Laws of England* 144, 147 (1628).[15] In the eighteenth century, Blackstone

[15] Coke defined bribery as "a great misprision (1) when any man in judicial place (2) takes any fee or pension, robe, or livery, gift, reward (3) or brocage (4) of any person, that

defined bribery as an offense involving a judge "or other person concerned in the administration of justice" and included the giver of the bribe as well as the recipient as an offender. 4 W. Blackstone, *Commentaries on the Laws of England* 139-140 (1765). Hawkins, writing after Blackstone, defined bribery to include not only the corruption of judges and persons involved in the administration of justice, but also "the taking or giving of a reward for offices of a public nature." 1 W. Hawkins, *Pleas of the Crown* 311-313 (1777). By the nineteenth century, bribery had come to subsume corruption of "any public officer," whether or not a judicial officer, as well as bribery of voters and witnesses. See J. Stephen, *Digest of the Criminal Law* 85-87 (1877). See also 3 J. Stephen, *A History of the Criminal Law of England* 250-255 (1883); 1 J. Gabbett, *A Treatise on the Criminal Law* 163 (1843). In sum, although beginning on a "narrow base," the evolution of the common law definition of bribery demonstrates an "ever-expanding growth in the recognition of an important social interest." R. Perkins, *Criminal Law* 468 (2d ed. 1969). See also *id.* at 470-474; 1 W. Burdick, *The Law of Crime* 426-429 (1946).

If petitioner were correct in asserting that a common law definition should be adopted as the measure of the term "bribery" in the Travel Act, the Court

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hath to do before him any way (5), for doing his office * * *." *Id.* at 144. He emphasized, however, that "bribery is only committed by him that hath a judicial place;" the offense could not be committed by other public officials. *Id.* at 147.

would be required to select a point in the common law's development as the standard of reference. If the common law in the age of Coke were selected, the Travel Act would cover only interstate activities aimed at the corruption of judges. On the other hand, if a later period were selected, the statute would have a broader coverage.[16] This, we submit, would be an essentially arbitrary choice, without a basis in the statute.[17] Moreover, there is no necessity to select an historical definition of bribery rooted in a particular common law period. The term bribery had acquired a generic meaning in the early part of the twentieth century, as we demonstrate below. It is that current meaning that is significant in interpreting the Travel Act.

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[16] The Second Circuit's *Brecht* decision failed to recognize the continuous growth in the common law definition of bribery. Simply stated, the common law yielded "new products at every stage." O. Holmes, *The Common Law* 1 (1923).

[17] Reliance on the common law to define the terms in the Travel Act would introduce other anomalies. For example, if the term "arson" were limited to its common law meaning, it would be restricted to cases in which a private dwelling was burned. See III Coke, *supra*, at 65; *United States* v. *Conway*, 507 F.2d 1047, 1051 (5th Cir. 1975). And, as noted in *United States* v. *Nardello*, *supra*, 393 U.S. at 289, the term "extortion" was limited at common law to the acts of public officials. Reading such limitations into the Act would be inconsistent with the manifest purpose to reach modern statutory offenses (including narcotics, liquor and gambling offenses), which had no common law sources. Reference to these types of statutory offenses demonstrates that Congress was not concerned with common law concepts but with present day meanings.

2. *When Congress enacted the Travel Act the term "bribery" included commercial bribery and other forms of non-official bribery*

Because the Travel Act is concerned with bribery "in violation of the laws of the State in which committed or of the United States," it is appropriate to examine federal and state bribery legislation in existence in 1961, the date of enactment of the Travel Act. That examination shows unmistakably that the term bribery, as understood by federal and state legislators, extended to commercial bribery and other forms of non-official bribery.

a. The prevalence of commercial bribery in certain industries in the United States led to calls for corrective federal legislation in the early decades of the twentieth century.[18] Early bills debated in Congress sought to prohibit commercial bribery on a general basis.[19] The criminal statutes ultimately en-

[18] See *Annual Report of the Federal Trade Commission* 52-54 (1920), advising Congress that "commercial bribery of employees is a prevalent and common practice in many industries." The Commission called for new criminal legislation, contending that "[b]ribery is criminal *per se*." See also Stevens, *Some Economic Consequences of Commercial Bribery*, 7 Harv. Bus. Rev. 156, 158-161 (1929), stressing the seriously adverse economic consequences of commercial bribery; accord, J. Flynn, *Graft in Business* 55-67 (1931). The need for new legislation to control commercial bribery was also debated in the legal journals. See, *e.g.*, Note, *Commercial Bribery*, 28 Colum. L. Rev. 799, 804-805 (1928); Note, *Bribery in Commercial Relationships*, 45 Harv. L. Rev. 1248, 1250 (1932).

[19] See, *e.g.*, H.R. 10159, 67th Cong., 2d Sess. (1922). Debates on that bill, which passed the House of Representatives but not the Senate, appear at 62 Cong. Rec. 7763-7767 (1922).

acted by Congress, however, focused on particular industries in which commercial bribery posed a particular threat to the national interest. In 1935, Congress passed the Federal Alcohol Administration Act, ch. 814, 49 Stat. 977, 982 (currently codified in 27 U.S.C. 205(c)), which prohibits "commercial bribery" in the sale of liquor. In the Transportation Act of 1940, ch. 722, 54 Stat. 898, 901-902 (currently codified in 49 U.S.C. 1(17)(b)), Congress prohibited the giving or receipt of a "bribe" in any form to influence a carrier to furnish railroad cars or other vehicles used for common carriage. And only one year before passage of the Travel Act, Congress enacted the Communications Act Amendments of 1960, Pub. L. No. 86-751, 74 Stat. 888, 897 (currently codified in 47 U.S.C. 509(a)(2)), which prohibit "bribery" in contests of skill or knowledge that are broadcast to radio or television audiences.[20] One year after enacting the Travel Act, Congress enacted additional legislation to prohibit "bribery" in "any sporting contest." See 78 Stat. 203-204

[20] Other federal statutes prohibit the giving or receipt of payments to induce a breach of private duty without explicitly using the term "bribery." See, *e.g.*, 18 U.S.C. 215 (corruption of bank officers to influence lending policies); 41 U.S.C. 51 (payment of kickbacks to contractors to procure subcontracts); 29 U.S.C. 186 (corruption of labor union officers). Congress clearly views these forms of corruption as "bribery." See S. Rep. No. 95-605 (Part 1), 94th Cong., 1st Sess. 732-750 (1977) (report on the Criminal Code Reform Act of 1977).

(currently codified in 18 U.S.C. 224).[21] Thus, both immediately before and after enactment of the Travel Act, Congress demonstrated its understanding that the term "bribery" applied to private as well as official corruption.

This statutory pattern, as the court of appeals noted (Pet. App. A-9), is of direct relevance to the question of interpretation presented here. See also *United States* v. *Pomponio, supra*, 511 F.2d at 956. It clearly establishes that Congress has not regarded the term "bribery" as a synonym for official corruption. It shows that Congress viewed commercial corruption, as well as corruption in sports and other contests, as a kind of "bribery" properly subject to federal criminal sanctions.[22]

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[21] This private bribery provision, like 18 U.S.C. 215, is codified in the same chapter of Title 18 that contains the principal official bribery provision (18 U.S.C. 201).

[22] Congress' prohibition of "commercial" bribery was preceded by action in the English Parliament. The first English statute governing commercial bribery was the Prevention of Corruption Act of 1906, 6 Edw. 7, c. 34, amended by the Prevention of Corruption Act of 1916, 6 & 7 Geo. 5, c. 64. See Ivamy, *The Bribery of Agents*, 16 The Solicitor 245 (1949); James, *Bribery and Corruption in Commerce*, 11 Int'l & Comp. L.Q. 880, 882 (1962):

> Commercial corruption * * * has only come to be an offence against the law [in England] since 1906. In the simple commercial relations of an agricultural community, bribery and corruption were doubtless accepted as an occupational hazard, as a legitimate weapon in the open warfare of the market place. With the growth of joint stock companies, the increasing public ownership of the capital invested in private industry and the delegation of managerial functions to professional business executives, the demand arose for ethical standards in private business organizations. * * * So it has come about that those engaged in both public and private industry have been made amenable to the criminal law, if they abuse their position of trust in order to obtain personal advantage.

b. The pattern in the state legislatures was similar. Near the turn of the century, many states enacted criminal legislation to prohibit commercial bribery, bribery of labor officials, bribery of athletes, and other forms of unofficial corruption. See generally 3 *Wharton's Criminal Law and Procedure* § 1400.1 (1979 Supp.). By 1961, 43 states had adopted criminal bribery statutes prohibiting bribery of agents, common carrier and telegraph company employees, labor officials, bank employees, or participants in sporting events. We have summarized these laws in the Appendix attached to this brief.[23] See also *Model Penal Code* § 223.10 at 113-117, Comment (Tent. Draft No. 11, 1960) ("[i]n principle, all relations which are recognized in a society as involving special trust should be kept secure from the corrupting influence of bribery"). The proposed Official Draft of the *Model Penal Code* (§ 224.8 (1962)) contained an explicit prohibition against commercial

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[23] As the Appendix demonstrates, 13 of these state private bribery statutes date back to the nineteenth century. Of the seven states that did not have private bribery statutes in 1961, six have enacted such statutes since 1961. Some of the state bribery statutes prohibit private and official bribery in the same provision. See, *e.g.*, Miss. Code Ann. § 97-11-11 (1973); R.I. Gen. Laws § 11-7-3 (1970); Vt. Stat. Ann. tit. 12, § 1106 (1973).

bribery, generalizing from existing state statutes. See also Note, *Control of Nongovernmental Corruption by Criminal Legislation*, 108 U. Pa. L. Rev. 848 (1960), discussing the extent of state penal legislation in this field.

This survey leaves no doubt that the term "bribery," as used in state and federal criminal statutes in existence in 1961, had a meaning far broader than that at common law. Bribery was not limited to corruption of public officials. Because the Travel Act refers to bribery illegal under state and federal law, the widespread existence of state and federal statutes punishing commercial and other forms of non-official bribery is a strong indication that the Travel Act should have a coextensive reach. Moreover, as we demonstrate below, there is clear evidence in the legislative history of the Travel Act that Congress was aware of the generic meaning currently afforded to the term bribery.

C. The Legislative History Of The Travel Act Demonstrates That Congress Recognized The Generic Meaning Of The Word Bribery

This Court has previously observed that the legislative history of the Travel Act is "limited." *Rewis* v. *United States*, 401 U.S. 808, 811 (1971). The committee reports contain no discussion that elucidates the scope of the term "bribery" as used in the Act. See S. Rep. No. 644, 87th Cong., 1st Sess. (1961); H.R. Rep. No. 966, 87th Cong., 1st Sess. (1961). The hearings on the legislation were extensive, however, and provide insights into the assumptions of its proponents. See *United States* v. *Nardello, supra*, 393 U.S. at 290-291.

The hearings before the House and Senate Judiciary Committees on the Travel Act and its companion legislation are replete with references to use by criminals of non-official bribery. For example, Attorney General Kennedy's testimony before the House Committee on one of the companion bills expressed grave concern about "gamblers [who] have bribed college basketball players to shave points on games." *Legislation Relating to Organized Crime: Hearings on H.R. 468, H.R. 1246, etc., Before Subcomm. No. 5 of the House Comm. on the Judiciary*, 87th Cong., 1st Sess. 25 (1961) ("*House Hearings*"). The Attorney General's testimony was also made a part of the record of the Senate hearings. *The Attorney General's Program to Curb Organized Crime and Racketeering: Hearings on S. 1653, S. 1654, etc., Before the Senate Comm. on the Judiciary*, 87th Cong., 1st Sess. 6 (1961) ("*Senate Hearings*"). In those same hearings, Attorney General Kennedy referred to labor union corruption as a form of "bribery." See *Senate Hearings* at 15. See also *House Hearings* at 84, where Rep. Foley described corruption of labor leaders as "pure bribery"; see also *id.* at 312 (similar remarks of Chairman Celler) and 319-320.[24] Of still greater significance, Senator

[24] These remarks were entirely consistent with the prevailing judicial view that the corruption of labor union officers was a form of "bribery." See *Arroyo* v. *United States*, 359 U.S. 419, 425-426 (1959).

Keating, in a colloquy with a representative of the Department of Justice, described the evils of sports bribery and noted that the Travel Act could be applied to such practices "if you could prove item of travel with intent." *Senate Hearings* at 327.[25]

The legislative history surrounding 18 U.S.C. 224, the 1964 enactment forbidding bribery in sporting events (described on pages 25-26, *supra*), confirms that Congress believed that the Travel Act was applicable to forms of bribery other than official bribery. The assumption in passing the sports bribery statute was that the Travel Act already applied to sports bribery if a state statute was infringed and the interstate nexus was satisfied. Because not all states had adopted such statutes, however, Congress deemed it necessary to enact a general federal prohibition against sports bribery. But the understanding that the Travel Act would also apply if an existing state statute was violated was clearly stated. See S. Rep. No. 593, 88th Cong., 1st Sess. 3-5 (1963) ("section 1952 of title 18 would apply to sporting events bribery effected through interstate commerce only when the bribe occurred in a State which has laws proscribing sporting events bribery. The existing law accordingly covers this situation only partially * * *.") See also *id.* at 5 (letter of Deputy Attorney

[25] As an active proponent of the Travel Act (see, *e.g.*, 107 Cong. Rec. 13943 (1961)), Senator Keating's understanding of the law is relevant. Cf. *Ernst & Ernst* v. *Hochfelder*, 425 U.S. 185, 203 (1976); *Simpson* v. *United States*, 435 U.S. 6, 13-14 (1978).

General White stating that the Travel Act "would apply at present to sports events bribery" if a state sports bribery statute was infringed). Although this subsequent legislative history is, of course, not controlling, and "cannot serve to change the legislative intent" of a prior Congress (*Illinois Brick Co.* v. *Illinois*, 431 U.S. 720, 734 n.14 (1977)), it is entitled to consideration because it is consistent with the literal text of the Travel Act, does not conflict with prior legislative views, and was generated by a committee of Congress only two years later during the enactment of a related statute. See generally *Reiter* v. *Sonotone Corp.*, No. 78-690 (June 11, 1979), slip op. 10 n.7; *NLRB* v. *Bell Aerospace Co.*, 416 U.S. 267, 275 (1974); *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 380-381 (1969).

In sum, although the legislative history does not explicitly state that the Travel Act was intended to encompass "commercial bribery," the materials cited above confirm that Congress understood the term "bribery" in its contemporary sense—as a generic description of corrupt payments to induce a breach of duty, applicable in contexts other than cases of official corruption.[26] That understanding provides di-

[26] The legislative history is not without reference, of course, to "official" bribery, in addition to the other forms of bribery to which we have referred. See *United States* v. *Brecht*, *supra*, 540 F.2d at 50 n.9. But this is entirely consistent with the view that Congress used the term "bribery" generically. Official bribery is a category of bribery of obvious importance to law enforcement efforts, and it certainly is cov-

rect support for the decision below, which interpreted the language of the statute in its generic sense and declined to introduce an unwritten limitation confining the statute to "official bribery." [27]

D. This Court's Decision In *United States* v. *Nardello* Confirms The Appropriateness Of A Generic Interpretation Of The Word Bribery

Because Congress has prohibited bribery generally, without limitation to a particular sub-category, and because it has given no indication that the statutory language should be limited to its common law definition, the court of appeals correctly concluded that *United States* v. *Nardello*, 393 U.S. 286 (1969), provides the governing rule of statutory interpretation. In *Nardello*, this Court considered the scope of the word "extortion," which appears in conjunction with "bribery" in the Travel Act. 18 U.S.C. 1952 (b) (2). The question was whether extortionate con-

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ered by the Travel Act. Nothing in the legislative history suggests, however, that official bribery is the *sole* category of bribery intended to be prohibited.

[27] See Miller, *The "Travel Act": A New Statutory Approach to Organized Crime in the United States*, 1 Duq. L. Rev. 181, 196 (1963) (footnote omitted): "Any extortion or bribery in violation of State or Federal law is enough." In illustrating the broad scope of the Travel Act, Miller lists several commercial bribery statutes that can trigger a Travel Act prosecution. *Id.* at 196 n.60. The author of this article was an Assistant Attorney General in charge of the Criminal Division of the Department of Justice, who testified extensively before the congressional committees that considered the Travel Act. See *House Hearings* at 335-378; *Senate Hearings* at 102-114, 243-329.

duct denominated as "blackmail" by state law should be treated as "extortion" within the scope of the Travel Act. The defendant contended that, at common law, the term "extortion" was limited to action by "public officials" and that the Travel Act should be limited accordingly. 393 U.S. at 289-290, 292-293. This Court rejected that contention, finding no language limiting the statute to official action (*id.* at 293, 296) and noting that blackmail by private parties is a variety of conduct "generally known as extortionate since money was to be obtained from the victim by virtue of fear and threats of exposure." The Court declined to give the term "extortion" the "unnaturally narrow reading" urged by the defendant, concluding that the Act's coverage is "generic" (*id.* at 296).[28] See also *United States* v. *Turley*, 352 U.S. 407, 411-417 (1957), holding that the term "stolen" appearing in the National Motor Vehicle Theft Act, 18 U.S.C. 2312, is not limited to takings that amount

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[28] *Nardello* establishes that the label that a state attaches to conduct falling within the generic meaning of the terms used in the Travel Act is not controlling. "We therefore conclude that the inquiry is not the manner in which States classify their criminal prohibitions but whether the particular State involved prohibits the extortionate activity charged." 393 U.S. at 295. Thus, conduct labelled as "blackmail" under state law is punishable if it falls within the generic definition of "extortion" contained in the Travel Act. *Id.* at 295-296. Similarly, conduct labelled as "corruption" under state statute would be covered by the Travel Act if it fell within the generic meaning of "bribery." In the present case, no such question is presented, since Louisiana law designates petitioner's conduct as commercial "bribery." See page 3, *supra*.

to common law larceny, but includes all takings of motor vehicles with the intent to deprive the lawful owner of the rights of ownership: "We conclude that the Act requires an interpretation of 'stolen' which does not limit it to situations which at common law would be considered larceny" (*id.* at 417).[29]

While the court below (Pet. App. A-9 to A-10) found that *Nardello* presents "a ready parallel to the case at bar," as did the Fourth Circuit in *United States* v. *Pomponio*, *supra*, 511 F.2d at 956-957,[30] the Second Circuit concluded in *United States* v. *Brecht*, *supra*, 540 F.2d at 48, that *Nardello* is distinguishable because this Court had noted (393 U.S. at 293 n.11) that bribery "traditionally focused upon corrupt

[29] As *Turley* recognizes (352 U.S. at 411), it is sometimes appropriate to look to the common law as an aid in construing undefined terms in criminal statutes. But this canon of construction, like all other "generalized axioms of experience in construing legislation" (*United States* v. *Universal C.I.T. Credit Corp.*, 344 U.S. 218, 222 (1952)), is but a guide, not an absolute. The common law is not definitive where, as here, a statutory term has an accepted generic meaning (both in legal and popular usage) and the generic meaning is supported by the legislative history of the statute and is most consistent with the congressional purpose. See *United States* v. *Cook*, 462 F.2d 301, 303 (D.C. Cir. 1972); see also *NLRB* v. *Hearst Publications*, 322 U.S. 111, 124-125 (1944).

[30] *Pomponio* held that the Travel Act covers bribery directed toward a bank officer, in violation of state and federal commercial bribery statutes. The court noted that "while the states and the federal government have enacted statutes dealing with the corruption of public officials, they have also extended the concept of bribery into areas of private conduct which we think appropriately fall within the ambit of the Travel Act." 511 F.2d at 956.

activities by public officials." This is of course true, but the same could be said of extortion (see 393 U.S. at 289), yet the Court refused to limit that term in the Travel Act to its common law definition. Here, as in *Nardello*, the broad scope of the statute, the absence of any reference or restriction to official action in the Act's language or legislative history, and (as we discuss below) the explicit congressional "design[] to stem the 'clandestine flow of profits'" to organized crime (*id.* at 292), strongly support the view that "bribery," like "extortion," should be given a generic interpretation. See *United States* v. *Dansker*, 537 F.2d 40, 47 (3d Cir. 1976) ("The Travel Act does not reach only those state offenses which would have constituted the crimes of 'extortion, bribery, or arson' at common law. Rather, all state offenses which can be generically classified under those headings fall within its purview"); see also *United States* v. *Michael*, 456 F. Supp. 335, 346-349 (D.N.J. 1978). To adopt the limiting construction urged by petitioner "would carve a substantial slice" from the coverage of the statute, a step that is not appropriate without "an affirmative indication * * * that Congress so intended." *Erlenbaugh* v. *United States*, *supra*, 409 U.S. at 247.

The Louisiana statute underlying petitioner's Travel Act conviction prohibits "commercial bribery," which it defines as "the giving or offering to give * * * anything of * * * value to any private agent, employee, or fiduciary, without the knowledge and consent of the principal or employer, with the intent

to influence such agent's, employee's, or fiduciary's action in relation to the principal's or employer's affairs." La. Rev. Stat. § 14:73. This statute clearly designates conduct falling within the generic definition of bribery, and petitioner's conviction under the Travel Act was therefore properly sustained.

E. Interpreting The Travel Act To Encompass Commercial Bribery Would Not Conflict With The Purposes Sought To Be Achieved By Congress

Relying on the Second Circuit's opinion in *United States* v. *Brecht*, *supra*, 540 F.2d at 50, petitioner contends that application of the Travel Act to commercial bribery would be inconsistent with the purposes sought to be achieved by Congress (Br. 6, 8-14). As noted in *Brecht*, the Travel Act was aimed primarily at illegal activities of "organized crime." Adopting that premise, the *Brecht* court reasoned that commercial bribery does not fall within the ambit of the Act because it "typically is not a feature of organized crime," but rather " 'is typically an establishment transgression' " (540 F.2d at 50, quoting *United States* v. *Niedelman*, 356 F.Supp. 979, 982 (S.D.N.Y. 1973)). Judge Rubin, dissenting in the court below, also expressed doubt regarding the extent to which organized criminals engage in commercial bribery (Pet. App. A-20).

Although it is correct to assert that the Travel Act was aimed primarily at organized crime, it is incorrect to conclude that "commercial bribery" is not a "feature of organized crime." To the contrary, organized crime is and historically has been

involved in commercial bribery on an extensive basis, using it as a key weapon to infiltrate legitimate businesses and to derive substantial revenues. The important purposes Congress sought to achieve through the Travel Act would therefore be severely undermined if such bribery were immunized from its sanctions.

As the Court observed in *United States* v. *Nardello*, *supra*, 393 U.S. at 291-292, 295, the Travel Act was "primarily designed to stem the 'clandestine flow of profits' " to criminals, by depriving them of the use of the facilities of interstate commerce in carrying on a broad spectrum of illegal activities. See also H.R. Rep. No. 966, 87th Cong., 1st Sess. 2-3 (1961); S. Rep. No. 644, 87th Cong., 1st Sess. 3-4 (1961). The victims of illegal activities of organized crime, as *Nardello* also noted, are often business firms. 393 U.S. at 291 n.8, 295 n.13.[31] In 1965, Congress amended the Travel Act to include "arson," in addition to "extortion" and "bribery," within the coverage of the Act. See *id.* at 291 n.8. The committee reports that accompanied that amendment emphasized once again the need to fight organized criminals by "exhausting their sources of illegal funds" and re-

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[31] By separately enumerating certain offenses (such as "bribery") in Section 1952(b)(2) of the Act, Congress made it clear that such offenses—whether or not a part of a "business enterprise" within the meaning of Section 1952(b)(1)—are forbidden. Congress was concerned that such acts, even when not a part of a criminal business enterprise, could provide "sources of income for organized crime." *United States* v. *Nardello*, *supra*, 393 U.S. at 291-292.

ducing their "spheres of influence." S. Rep. No. 351, 89th Cong., 1st Sess. 3 (1965). The Senate Report also noted, quoting from the views of the Attorney General, that "[t]he success of the Government's war against crime syndicates depends in part on the termination of their primary sources of illegal revenue." *Id.* at 4. See also H.R. Rep. No. 264, 89th Cong., 1st Sess. 1-4 (1965).

Permitting criminals to engage in schemes of commercial bribery through use of the facilities of interstate commerce would be wholly inconsistent with the congressional purpose to dry up the sources of revenue that are available to them. The infiltration of organized crime into legitimate business is now well documented, as is the fact that organized crime uses dishonest methods to obtain influence over its business victims and to compete with other business firms. See, *e.g.*, S. Rep. No. 141, 82d Cong., 1st Sess. 34 (1951) (Kefauver Report); S. Rep. No. 307, 82d Cong., 1st Sess. 170 *et seq.* (1951); S. Rep. No. 1139 (Part 3), 86th Cong., 2d Sess. 508-509 (1960) (McClellan Report); S. Rep. No. 1139 (Part 4), 86th Cong., 2d Sess. 856 (1960); President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Organized Crime* 4-5 (1967); H.R. Rep. No. 1574, 90th Cong., 2d Sess. 74 (1968). The use by organized crime of commercial and other forms of non-official bribery to conduct profitable criminal ventures is equally well documented. See, *e.g.*, S. Rep. No. 307, *supra*, at 160-161 (bribery of athletes in connection with gambling activities); S.

Rep. No. 1139 (Part 4), *supra*, at 772 (bribery of bank officers). Hearings focusing on the techniques used by organized crime to infiltrate business firms have clearly established that commercial bribery is a highly effective and frequently used strategy. See *Organized Crime, Stolen Securities: Hearings Before the Subcomm. on Investigations of the Senate Comm. on Government Operations*, 92d Cong., 1st Sess. 675-683 (1971) (describing the widespread use of commercial bribery to steal securities from brokerage houses and pledge them with banking institutions); *Organized Crime, Techniques for Converting Worthless Securities into Cash: Hearings Before the House Select Comm. on Crime*, 92d Cong., 1st Sess. 3, 242, 292-293, 297, 361 (1971) (describing the use by racketeers of commercial bribery to corrupt the president of an insurance company and sell worthless securities to the company); *Organized Crime, Securities: Thefts and Frauds: Hearings Before the Permanent Subcomm. on Investigations of the Senate Comm. on Government Operations*, 93d Cong., 1st Sess. 183, 239, 240, 467, 475-476 (1973) (describing commercial bribery used by organized criminals to corrupt certified public accountants and employees in financial institutions).[32]

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[32] Recent studies have also focused on the extent to which organized crime uses commercial and other forms of non-official bribery. See R. Kennedy, *The Enemy Within* 97-100, 216-217 (1960) (bribery of labor officials); Johnson, *Organized Crime: Challenge to the American Legal System*, 53 J. Crim. L. C. & P. S. 399, 411-412 (1962) (bribery of athletes); McKeon, *The Incursion by Organized Crime Into*

The extent of commercial bribery has been described by the United States Chamber of Commerce as "pervasive." See *White Collar Crime* 15 (1974). The Chamber of Commerce estimates that commercial bribery, payoffs and kickbacks cost American business $3 billion annually. *Id.* at 6.

In short, commercial bribery is one of the most effective strategies available to organized crime to infiltrate legitimate business and to earn illicit profits. The financial rewards attainable from corrupt activities in the commercial context are obvious and well documented. Indeed, there is no reason to infer that the involvement of organized crime in commercial bribery is any less extensive than its involvement in official bribery. Due to the financial incentives involved, the inference to be drawn is quite the opposite. We submit that it would be anomalous to interpret the Travel Act, which was intended to deprive organized crime of the means of producing illegal revenues, to prohibit arson and extortionate practices injurious to business firms, while permitting organized crime to use the facilities of interstate

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Legitimate Business, 20 J. Pub. L. 117, 139-140 (1971) (bribery of cargo handlers to assist in theft of valuable cargo); T. Clark and J. Tigue, *Dirty Money* 92, 133, 171, 180-181, 196 (1975) (bribery of employees in banks and brokerage firms); A. Bequai, *Computer Crime* 1, 4, 9, 19 (1978) (bribery of computer programmers). The most extensive study of the use of organized crime of commercial bribery is J. Kwitny, *Vicious Circles: The Mafia in the Marketplace* 5-46, 94-99, 202, 205, 210, 241-246 (1979) (describing organized crime's use of commercial bribery in a broad spectrum of industries).

commerce to commit commercial bribery. Such an interpretation would frustrate the intent of Congress in enacting the statute.[33]

F. The Travel Act Does Not Require That A Defendant Have A Demonstrated Relationship With Organized Crime

1. Petitioner also contends, in reliance on Judge Rubin's dissenting opinion in the court of appeals (Pet. App. A-22), that he was not proven to be a member of organized crime and that the statute is therefore inapplicable to him (Br. 8, 15). That contention is also meritless. Although, as noted above, the Travel Act was intended to prohibit criminal schemes frequently associated with organized crime, it contains no requirement that a particular defendant be shown to have an affiliation with organized crime. The statute states unequivocally that "[*w*]*hoever* travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce" for the purposes forbidden by the statute is guilty of

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[33] If petitioner's proposed construction of the statute were correct, organized criminals, based in New York, could operate a scheme to bribe employees of a stock brokerage firm in Chicago, or a bank in Miami Beach, causing extensive financial injury to those businesses and enriching the syndicate. Due to the interstate nature of the scheme, local authorities would not be empowered to investigate or prosecute the offenders effectively. The very evils that Congress intended to eliminate in 1961 would go without remedy. Such a construction would be inappropriate for, as noted in *United States* v. *Nardello*, *supra*, 393 U.S. at 292, "[t]he legislative response was to be commensurate with the scope of the problem."

a violation. 18 U.S.C. 1952(a) (emphasis supplied).[34] See generally *United States* v. *Nardello*, *supra*, 393 U.S. at 293, rejecting the argument that the statute applies only to certain categories of persons who violate its provisions: "§ 1952 imposes penalties upon any individual crossing state lines or using interstate facilities for any of the statutorily enumerated offenses." Thus, although the statute was primarily aimed at prohibiting illegal activities commonly associated with organized criminals, its coverage is general: anyone engaging in the conduct prohibited by the Act is subject to its sanctions.

The Court recently rejected an argument identical to petitioner's contention in *United States* v. *Culbert*, 435 U.S. 371 (1978). There, the Court held that the general prohibition of extortion contained in the Hobbs Act (18 U.S.C. 1951) does not require the government to prove that a particular defendant's conduct constituted "racketeering," even though prevention of racketeering was a central purpose of that statute. The Court noted that "racketeering" is not an element of the offense and is not defined by the statute. Although Congress "was very concerned about racketeering activities" when it passed the statute (435 U.S. at 374), it "did not intend to make

[34] Although the title of the statute refers to interstate travel in aid of "racketeering enterprise," that summary reference does not purport to detract from the general scope of the statute. See, *e.g.*, *United States* v. *Archer*, 486 F.2d 670, 680 (2d Cir. 1973); *Fraser* v. *United States*, 145 F.2d 139, 142 (6th Cir.), cert. denied, 324 U.S. 849 (1944). See also *Erlenbaugh* v. *United States*, *supra*, 409 U.S. at 247 n.21.

racketeering a separate, unstated element of an Anti-Racketeering Act violation" (*id.* at 376). Accordingly, the Hobbs Act was interpreted "to make punishable all conduct falling within the reach of the statutory language" (*id.* at 377). In reaching that conclusion, the Court emphasized the substantial vagueness problems that would result if an undefined element of "racketeering" were judicially implied (*id.* at 374).

Culbert is dispositive of petitioner's claim that the Travel Act requires the government to prove that he was a member of organized crime. As in the case of the Hobbs Act, no such element is prescribed by the Travel Act, and any attempt to imply such an element would lead to serious vagueness problems. This case illustrates the difficulties that would result. The evidence at trial showed that petitioner engaged in a well-organized conspiracy, involving several members, to steal commercial data through bribery. The plan involved the use of interstate facilities and a potential investor with an extensive past criminal record. The sophisticated enterprise was intended to operate through a corporation and was expected to yield substantial revenues. See pages 5-9, *supra*. Thus, the enterprise had many indicia of criminal "organization." Petitioner nonetheless argues, without elaboration, that the scheme cannot be equated with "organized crime." Clearly, the statute provides no basis for deciding whether or not the enterprise meets such an undefined standard. Here, as in *Culbert*, there is no statutory definition or requirement of

proof of organized criminal activity, and no such element should be engrafted on the statute.[35]

2. Petitioner also raises the related claim (Br. 8-9) that extension of the Travel Act to acts of commercial bribery without a proven association with organized crime could result in prosecution of insignificant offenses and would expand the jurisdiction of the federal government over state offenses. See also *United States* v. *Brecht*, *supra*, 540 F.2d at 49. However, there is no question here of applying the statute to an insignificant criminal enterprise. As noted above, petitioner participated in a well organized criminal scheme that was expected to yield substantial profits from petroleum exploitation and that involved numerous sophisticated participants. Moreover, there is no reason to infer that commercial bribery is inherently more likely to involve insignificant misconduct than official bribery, which is concededly covered by the Act. Official bribery can involve the payment of a small bribe to a police officer just as commercial bribery can involve a small payment to a purchasing agent. The Department of Justice would not ordinarily expend its limited re-

[35] See also *United States* v. *Peskin*, 527 F.2d 71, 76-77 (7th Cir. 1975); *United States* v. *Phillips*, 433 F.2d 1364, 1367 (8th Cir. 1970), cert. denied, 401 U.S. 917 (1971); *United States* v. *Roselli*, 432 F.2d 879, 885 (9th Cir. 1970), cert. denied, 401 U.S. 924 (1971), holding that the Travel Act is not limited to offenses committed by members of organized crime.

sources in the prosecution of such cases under the Travel Act.[36]

Petitioner's argument (Br. 9) that the Travel Act, as construed by the court below, will embrace offenses already prohibited under state law and will involve the federal government in the prosecution of local criminal activities with interstate ramifications is true, but irrelevant. The Travel Act was clearly intended to have that effect. It explicitly applies to bribery schemes illegal under federal *or* state law. As this Court has repeatedly noted, "the purpose of the Travel Act was to aid local law enforcement officials." *United States* v. *Nardello*, *supra*, 393 U.S. at 290. The Travel Act was part of "a comprehensive federal legislative effort to assist local authorities in dealing with organized criminal activity which, in many instances, had assumed interstate proportions and which in all cases was materially assisted in its operations by the availability of facilities of interstate commerce." *Erlenbaugh* v. *United States*, *supra*, 409 U.S. at 245. See also *id.* at 247 n.21. Accord, *United States* v. *Culbert*, *supra*, 435 U.S. at 379: "With regard to the concern about disturbing the federal-state balance, moreover, there is no question that Congress intended to define as a federal

[36] Should a trial court conclude that the misconduct involved in a particular Travel Act prosecution is relatively insignificant or that mitigating circumstances surround the offense, it is vested with discretion to adjust the penalty to meet the circumstances of the case. In the present case, the district court imposed a substantial prison term on co-defendants Levy and LaFont, but it gave petitioner a suspended sentence.

crime conduct that it knew was punishable under state law." [37]

Petitioner's argument that the Travel Act unfairly enhances the penalties applied by states to commercial bribery offenses is equally insubstantial. The Travel Act refers, in part, to state statutes to determine whether a violation has occurred. However, Congress has prescribed its own penalties, based on the use of interstate facilities to promote the illegal enterprise. Congress undoubtedly has the power to prescribe penalties that attach to offenses affecting interstate commerce, regardless of whether the states attach different penalties to local offenses. See, *e.g.*, *United States* v. *Brecht*, *supra*, 540 F.2d at 50; *United States* v. *Brennan*, 394 F.2d 151, 153 (2d Cir.), cert. denied, 393 U.S. 839 (1968); see generally *Smith* v. *United States*, 431 U.S. 291, 307 (1977); *Kentucky Whip & Collar Co.* v. *I.C.R. Co.*, 299 U.S. 334, 346-347 (1937).

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[37] Contrary to petitioner's assertion (Br. 7), *Rewis* v. *United States*, 401 U.S. 808 (1971), does not suggest that application of the Travel Act to commercial bribery would upset the federal-state balance. *Rewis* dealt with the sufficiency of the interstate nexus in a prosecution focused on a local gambling establishment with certain out-of-state patrons. This Court held that operation of a local gambling business with patrons from out of state would not, without more, constitute a sufficient use of interstate facilities to infringe the Act. Due to the Court's limited grant of certiorari in the present case, no question concerning the adequacy of the evidence establishing use of interstate facilities is presented for decision.

G. Because The Travel Act Clearly Extends To All Kinds Of Bribery, Including Commercial Bribery, The Rule Of Lenity Does Not Support A Narrow Construction

Petitioner's final contention (Br. 8) is that his conviction should be reversed pursuant to the "rule of lenity." He asserts that the Travel Act's coverage is ambiguous and that the Act must therefore be construed strictly in his favor. See *United States* v. *Brecht*, *supra*, 540 F.2d at 50.

As we have demonstrated above, however, the literal language of the statute applies to petitioner's offense. He was convicted of facilitating bribery under a statute that focuses on bribery generically, without limitation on its category. Moreover, the legislative history supports the Travel Act's plain meaning. Under these circumstances, the rule of strict construction does not require a narrow interpretation: " 'The rule of strict construction is not violated by permitting the words of the statute to have their full meaning, or the more extended of two meanings, as the wider popular instead of the more narrow technical one * * *.' " *SEC* v. *C.M. Joiner Leasing Corp.*, 320 U.S. 344, 355 (1943).

Similarly, because the ambit of the Travel Act can be ascertained with reasonable certainty, the rule of lenity does not support petitioner's claim. See *Scarborough* v. *United States*, 431 U.S. 563, 577 (1977) (the rule of lenity is only applicable when " '[a]fter seizing every thing from which aid can be derived * * * we are left with an ambiguous statute * * *' ").

See also *Barrett* v. *United States*, 423 U.S. 212, 217-218 (1976) ("There is no occasion here to resort to a rule of lenity * * * for there is no ambiguity that calls for a resolution in favor of lenity. A criminal statute, to be sure, is to be strictly construed but 'it is not to be construed so strictly as to defeat the obvious intention of the legislature' "). Accord, *United States* v. *Culbert*, *supra*, 435 U.S. at 379; *United States* v. *Naftalin*, No. 78-561 (May 21, 1979), slip op. 10; *United States* v. *Batchelder*, No. 78-776 (June 4, 1979), slip op. 7.[38]

In sum, the Travel Act, literally read, extends to the offense for which petitioner was convicted, and nothing in the legislative history suggests that the Act should be construed in the narrow fashion that he urges. The rule of lenity thus provides no basis for reversing his conviction.

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[38] Considerations of fairness do not weigh in favor of petitioner's assertion of the rule of lenity. Petitioner recognized that his conduct was wrongful at the time that it occurred (see pages 8-9, *supra*). He had clear notice that commercial bribery was illegal under the Louisiana criminal statute that triggered application of the Travel Act. And, prior to the time that he engaged in the scheme to commit commercial bribery, this Court had confirmed that the words in the Travel Act should receive a generic interpretation (*United States* v. *Nardello*, *supra*). Moreover, the only court of appeals to have ruled upon the precise question presented here had held that the Travel Act covered commercial bribery (*United States* v. *Pomponio*, *supra*). Hence, this is not a case in which petitioner was "forced to speculate * * * whether his conduct is prohibited." *Dunn* v. *United States*, No. 77-694 (June 4, 1979), slip op. 12.

CONCLUSION

The judgment of the court of appeals should be affirmed.

Respectfully submitted.

WADE H. MCCREE, JR.
Solicitor General

PHILIP B. HEYMANN
Assistant Attorney General

STEPHEN M. SHAPIRO
Assistant to the Solicitor General

JAMES ROLAND DIFONZO
Attorney

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APPENDIX A

PRIVATE BRIBERY STATUTES ENACTED BY 1961

State	Type of Bribery Prohibited	Original Enactment	Current Codification
Alabama	Sports	1947 Ala. Acts, No. 253 at 107	ALA. CODE tit. 13, § 13-4-9
Alaska	Telegraph Agent	ALASKA CODE (1900) § 172	ALASKA STAT. § 42.20.110
Arizona	Alcoholic Beverages	1939 Ariz. Sess. Laws, ch. 64, § 12 at 185	ARIZ. REV. STAT. § 4-243
	Sports	1949 Ariz. Sess. Laws, ch. 61, § 12 at 124	ARIZ. REV. STAT. § 13-2309
Arkansas	Sports	1951 Ark. Acts, No. 250 at 585	ARK. STAT. ANN. § 41-3288
	Banking	1913 Ark. Acts, No. 113, § 24 at 476	ARK. STAT. ANN. § 67-707
California	Sports	1921 Cal. Stats., ch. 54, at 62	CAL. PENAL CODE §§ 337b-e (West)
	Telegraph Agent	CAL. PENAL CODE § 641 (1872)	CAL. PENAL CODE § 641 (West)
	Banking	1909 Cal. Stats., ch. 76, § 39 at 97	CAL. FIN. CODE § 3350 (West)
Colorado	Sports	1947 Colo. Sess. Laws, ch. 171 at 380	COLO. REV. STAT. § 18-5-403
	Telegraph Agent	1877 Colo. Sess. Laws, ch. 23, § 781, at 312	COLO. REV. STAT. § 40-17-8
Connecticut	Sports	1947 Conn. Pub. Acts, No. 19[illegible] at 159	CONN. GEN. STAT. ANN. §§ 53-287, 53-288 (West)
Delaware	Sports	46 Del. Laws (1947), ch. 231 at 629	DEL. CODE tit. 28, §§ 701-704
Florida	Sports	1953 Fla. Laws, ch. 28024 at 143	FLA. STAT. § 838.12
Hawaii	Sports	1947 Haw. Sess. Laws, ch. 186 at 385	HAW. REV. STAT. § 725-7

PRIVATE BRIBERY STATUTES ENACTED BY 1961 (Continued)

State	Type of Bribery Prohibited	Original Enactment	Current Codification
Illinois	Sports	1921 Ill. Laws at 400	ILL. REV. STAT. ch. 38, §§ 29-1 to 29-3
Indiana	Common Carrier	1907 Ind. Acts, ch. 120 at 192	IND. CODE §§ 10-604, 10-605
	Sports	1947 Ind. Acts, ch. 17 at 64	IND. CODE §§ 10-606, 10-607
Iowa	Sports	1953 Iowa Acts, ch. 254 at 332	IOWA CODE ANN. § 722.3 (West)
Kentucky	Alcoholic Beverages	1938 Ky. Acts, ch. 2, § 113 at 48	KY. REV. STAT. ANN. § 244.600 (Bobbs-Merrill)
	Sports	1952 Ky. Acts, ch. 1 at 1	KY. REV. STAT. ANN. §§ 436.505, 436.506 (Bobbs-Merrill)
Louisiana	Commercial	1920 La. Acts, No. 108, §§ 1-10	LA. REV. STAT. ANN. § 14:73 (West)
	Sports	1952 La. Acts, No. 279 at 732	LA. REV. STAT. ANN. § 14:118.1 (West)
Maine	Labor	1880 Me. Acts, ch. 200, § 4 at 202	ME. REV. STAT. tit. 17, § 3601
Maryland	Sports	1947 Md. Laws, ch. 67 at 84	MD. CRIMES AND PUNISHMENTS CODE ANN. art. 27, §§ 24, 25
Massachusetts	Sports	1947 Mass. Acts, ch. 405 at 386	MASS. GEN. LAWS ANN. ch. 271, § 39A (West)
Michigan	Sports	1921 Mich. Pub. Acts, No. 238 at 451	MICH. STAT. ANN. § 28.319
	Commercial	1905 Mich. Pub. Acts, No. 210 at 307	MICH. STAT. ANN. § 28.320

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PRIVATE BRIBERY STATUTES ENACTED BY 1961 (Continued)

State	Type of Bribery Prohibited	Original Enactment	Current Codification
Minnesota	Sports	1947 Minn. Laws, ch. 57 at 75	MINN. STAT. ANN. § 609.825 (West)
Mississippi	Commercial	MISS. CODE (1857), ch. 64, art. 34 at 578	MISS. CODE ANN., §§ 97-11-11, 97-11-13
	Sports	1954 Miss. Laws, ch. 232 at 258	MISS. CODE ANN., § 97-29-17
Missouri	Sports	1921 Mo. Laws at 283	MO. ANN. STAT. § 570.155 (Vernon)
Montana	Telegraph Agent	MONT. PENAL CODE (1895) § 1153 at 927	MONT. REV. CODES ANN. § 94-35-221
Nebraska	Commercial	1907 Neb. Laws, ch. 171 at 503	NEB. REV. STAT. § 28-710
	Sports	1947 Neb. Laws, ch. 102 at 289	NEB. REV. STAT. § 28-710.01
Nevada	Labor	1912 Nev. Stats. §§ 6794, 6795 at 1926	NEV. REV. STAT. §§ 614.140, 614.150
	Telegraph Agent	1864 Nev. Stats., ch. 86, § 7 at 125	NEV. REV. STAT. § 707.120
New Jersey	Banking	1913 N.J. Laws, ch. 132 at 212	N.J. STAT. ANN. § 2A:91-1 (West)
	Labor	1911 N.J. Laws, ch. 94 at 133	N.J. STAT. ANN. §§ 2A:93-7 2A:93-8 (West)
	Sports	1945 N.J. Laws, ch. 217 at 722	N.J. STAT. ANN. §§ 2A:93-10, 2A:93-11 (West)
New York	Labor	1904 N.Y. Laws, ch. 659 at 1655	N.Y. PENAL LAW § 180.15 (McKinney)

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PRIVATE BRIBERY STATUTES ENACTED BY 1961 (Continued)

State	Type of Bribery Prohibited	Original Enactment	Current Codification
New York (continued)	Sports	1921 N.Y. Laws, ch. 80 at 278	N.Y. PENAL LAW § 180.35 (McKinney)
	Commercial	1905 N.Y. Laws, ch. 136 at 225	N.Y. PENAL LAW § 180.00-180.03 (McKinney)
North Carolina	Sports	1921 N.C. Sess. Laws, ch. 23 at 138	N.C. GEN. STAT. §§ 14-373 to 14-376
	Banking	1903 N.C. Sess. Laws, ch. 275, § 24 at 475	N.C. GEN. STAT. § 14-233
Ohio	Sports	1921 Ohio Laws at 83	OHIO REV. CODE ANN. § 3773.15 (Page) [repealed]
Oklahoma	Sports	1947 Okla. Sess. Law Serv., tit. 21, ch. 10 at 231	OKLA. STAT. ANN., tit. 21, §§ 399, 400 (West)
Oregon	Telegraph Agent	1862 Or. Laws, ch. 54, § 14 at 920	OR. REV. STAT. § 165.515
Pennsylvania	Sports	1939 Pa. Laws, No. 375, §§ 614, 615 at 872	18 PA. CONS. STAT. ANN. § 4109 (Purdon)
	Commercial	1939 Pa. Laws, No. 375, § 667 at 872	18 PA. CONS. STAT. ANN. § 4108 (Purdon)
	Labor	1897 Pa. Laws, No. 130 at 157	18 PA. CONS. STAT. ANN. § 7322 (Purdon)
Rhode Island	Commercial	1881 R.I. Pub. Laws, ch. 864 at 121	R.I. GEN LAWS § 11-7-3, 11-7-4
	Sports	1950 R.I. Pub. Laws, ch. 2556 at 345	R.I. GEN LAWS § 11-7-9, 11-7-10
South Carolina	Commercial	1905 S.C. Acts, No. 467 at 942	S.C. CODE § 16-17-540

PRIVATE BRIBERY STATUTES ENACTED BY 1961 (Continued)

State	Type of Bribery Prohibited	Original Enactment	Current Codification
South Dakota	Architects	1909 S.D. Sess. Laws, ch. 220 at 325	S.D. COMP. LAWS ANN. § 36-18-28
Tennessee	Commercial	1909 Tenn. Acts, ch. 179 at 633	TENN. CODE ANN. §§ 39-821, 39-822
	Sports	1921 Tenn. Commercial Acts, ch. 138 at 368	TENN. CODE ANN. §§ 39-824 to 39-826
Texas	Attorneys	TEX. PENAL CODE (1857) arts. 302-303 at 56	TEX. PENAL CODE ANN. tit. 7, § 32.43 (Vernon)
	Sports	1947 Tex. Gen. Laws, ch. 427 at 1009	TEX. PENAL CODE ANN. tit. 7, § 32.44 (Vernon)
Utah	Telegraph Agent	UTAH COMP. LAWS (1876) § 2209 at 646	UTAH CODE ANN. § 76-9-403
Vermont	Commercial	1904 Vt. Acts, No. 154 at 210	VT. STAT. ANN. tit. 13, § 1106
Virginia	Sports	1960 Va. Acts, ch. 358 at 488	VA. CODE §§ 18.2-442, 18.2-443
Washington	Telegraph Agent	WASH. CODE (1881) § 2348 at 405	WASH. REV. CODE ANN. § 9.73.010
	Sports	1921 Wash. Laws, ch. 181, § 1 at 716	WASH. REV. CODE ANN. §§ 67.04.010 to 67.04.080
	Labor	1909 Wash. Laws, ch. 249, § 425 at 1025	WASH. REV. CODE ANN. §§ 49.44.020, 49.44.030
West Virginia	Sports	1945 W. Va. Acts, ch. 45 at 223	W. VA. CODE § 61-10-22
Wisconsin	Commercial	1905 Wis. Laws, ch. 129 § 1 at 199	WIS. STAT. ANN. § 134.05 (West)
	Sports	1945 Wis. Laws, ch. 339 at 516	WIS. STAT. ANN. § 945.08 (West)

APPENDIX B

PRIVATE BRIBERY STATUTES ENACTED SINCE 1961 IN STATES WHICH PREVIOUSLY HAD NO SUCH LEGISLATION

State	Type of Bribery Prohibited	Original Enactment	Current Codification
Georgia	Sports	1968 Ga. Laws, No. 1157 at 1249	GA. CODE ANN. §§ 26-2711, 26-2712
Kansas	Commercial	1969 Kan. Sess. Laws, ch. 180, § 21-4405	KAN. CRIM. CODE & CODE OF CRIM. PROC. § 21-4405 (Vernon)
	Sports	1969 Kan. Sess. Laws, ch. 180, § 21-4406	KAN. CRIM. CODE & CODE OF CRIM. PROC. § 21-4406 (Vernon)
New Hampshire	Commercial	1971 N.H. Laws, ch. 518 at 666	N.H. REV. STAT. ANN. § 638:7
	Sports	1971 N.H. Laws, ch. 518 at 667	N.H. REV. STAT. ANN. § 638:8
New Mexico	Sports	1963 N.M. Laws, ch. 303 at 876	N.M. STAT. ANN. § 40A-19-13
North Dakota	Sports	1973 N.D. Sess. Laws, ch. 116, § 12 at 247	N.D. CENT. CODE § 12.1-12-07
	Commercial	1973 N.D. Sess. Laws, ch. 116, § 12 at 248	N.D. CENT. CODE § 12.1-12-08
Wyoming	Sports	1963 Wyo. Sess. Laws, ch. 159, § 1	WYO. STAT. §§ 6-9-301 to 6-9-307

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